

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----x  
WAYNE PHILLIP VANCE,

Plaintiff,

-v-

9:18-CV-748

NYS DOCCS, et al.,

Defendants.  
-----x

**TELEPHONE CONFERENCE TRANSCRIPT  
BEFORE THE HONORABLE ANDREW T. BAXTER**

December 10, 2020  
100 South Clinton Street, Syracuse, New York

Pro sé Plaintiff:  
(Appearance by telephone)

**WAYNE PHILLIP VANCE**  
12-B-3682  
Elmira Correctional Facility  
P.O. Box 500  
Elmira, NY 14902

For the Defendants:  
(Appearance by telephone)

NEW YORK STATE ATTORNEY GENERAL  
The Capitol  
Albany, New York 12224  
BY: **ERIK B. PINSONNAULT, ESQ.**

*Hannah F. Cavanaugh, RPR, CRR, CSR, NYACR, NYRCR  
Official United States Court Reporter  
100 South Clinton Street  
Syracuse, New York 13261-7367  
(315) 234-8545*

1 (The Court and all parties present by telephone.  
2 Time noted: 1:57 p.m.)

3 THE COURT: This is Vance versus New York State  
4 Department of Corrections and Community Supervision, et al.,  
5 9:18-CV-748.

6 We have Wayne Phillip Vance, the pro sé plaintiff, on  
7 the line and Erik Pinsonnault -- I always mispronounce your  
8 name --

9 MR. PINSONNAULT: Pinsonnault.

10 THE COURT: -- Pinsonnault on the line, as well.

11 This was -- this call was initiated as a result of a  
12 letter from defense counsel, so I'll let you start.

13 MR. PINSONNAULT: Thank you very much, your Honor. I  
14 appreciate it. No worries about the name, it's a tricky one.

15 And I -- in short, I think that as noted in the  
16 letter, we had -- have received an extension on discovery in  
17 this matter. And the outstanding items with respect to  
18 discovery, from our end, is to depose Mr. Vance. Due to a  
19 variety of setbacks, we kept pushing -- having to reschedule the  
20 deposition at Elmira. And we did finally get Mr. Vance on the  
21 line recently with a court reporter. He was on video and we had  
22 a court reporter appear there to take his deposition and he  
23 indicated that he -- among other things, I think he indicated  
24 that he'd prefer a conference and would be unwilling to go  
25 forward with the deposition on that date. And so --

1 MR. VANCE: Can I speak?

2 THE COURT: Let the lawyer finish and then I'll give  
3 you a chance, Mr. Vance.

4 MR. VANCE: All right.

5 MR. PINSONNAULT: And ultimately, our goal is to --  
6 you know, if we go forward, we would like to depose Mr. Vance  
7 probably by video from his correctional facility. He did raise  
8 a number of concerns on the record there that we -- we just  
9 recently got the transcript in the mail and I'll get that -- a  
10 copy of that out to Mr. Vance very soon. We just received it  
11 today.

12 And so some of the issues he raised there at the  
13 deposition we have raised in some prior letters or filings with  
14 the Court, and we've provided our paper discovery to plaintiff.  
15 We would like to take his deposition and we are amendable to --  
16 certainly amenable to an extension of the discovery deadline in  
17 order to go ahead and take that deposition so long as Mr. Vance  
18 is willing to submit to a deposition.

19 THE COURT: Okay. Go ahead, Mr. Vance. Yep.

20 MR. VANCE: Well, first and foremost, I would like to  
21 discuss all the issues involved in this historic high profile  
22 civil case so that we will hopefully be able to reach a  
23 settlement agreement for the demands and liability of every  
24 count in nature, legal or -- of aforesaid sustained by me, my  
25 family, friends, and relatives solely on account of a -- of an

1 employee of the federal or state government. The issues  
2 involved in this case are described as the following -- oh, is  
3 this being recorded?

4 THE COURT: There is a court reporter, Mr. Vance, but  
5 I'm not -- I'm not looking for you to make a general speech  
6 about the merits of your case and --

7 MR. VANCE: I'm not -- I'm not making a general  
8 speech. These issues have to be addressed before we go further,  
9 so, of course, the fact that, you know, I have an opportunity to  
10 address these issues at this time, I would like the Court and,  
11 of course, the Assistant Attorney General to give me an  
12 opportunity to speak.

13 THE COURT: All right. Well, do so a little more  
14 slowly so the court reporter can get down what you're saying.  
15 Okay?

16 MR. VANCE: Okay. So do you need me to start over?

17 THE COURT: No, go ahead.

18 MR. VANCE: All right. Number one, Assistant  
19 Attorney General Erik Pinsonnault has not provided for the  
20 enforcement of laws after becoming thoroughly familiar with the  
21 facts and circumstances involved in this case. He is unwilling  
22 to address the issues involved in this case and has shown a lack  
23 of impartiality. Mr. Pinsonnault and the defendants have been  
24 using illegal tactics to encroach on my individual liberties and  
25 rights in hopes of gaining an unfair advantage or favorable

1 outcome in this case.

2           They are aware of the fact that I'm not healthy  
3 enough to give a deposition or to take the stand at trial  
4 because of my current medical conditions that were deliberately  
5 caused by the wrongful actions of the defendants throughout this  
6 unlawful imprisonment for well over eight and a half years.  
7 They are very familiar with the legal effects of their  
8 oppressive behaviors by personal knowledge, observation,  
9 investigations, and conferences with other professionals.

10           Number two, the United States District Court Judges  
11 Mae A. D'Agostino, Brenda K. Sannes, and Andrew T. Baxter -- I  
12 believe that's you -- is unwilling to perform their legal duties  
13 and has shown a lack of impartiality because they have refused  
14 to want -- waive the filing fees or reduce the surcharges to a  
15 respectable amount for the indigent plaintiff; two, appoint me  
16 an attorney; three, allow me to supplement the complaint; four,  
17 serve copies of the supplemental complaint, summons, and  
18 exhibits upon all parties by the United States Marshal; five,  
19 schedule a scheduling conference to discuss, amongst other  
20 things, the issues involved in the case, settlement, and a  
21 proposed scheduling order; six, compel the defendants to turn  
22 over all documentary and other evidence requested in my  
23 discovery motion; seven, grant a summary judgement to  
24 immediately release me from the oppressive behavior of the  
25 defendants; eight, provide for my mental and physical

1 examinations from outside healthcare agencies; nine, provide for  
2 me to receive treatment for my current medical conditions while  
3 in the care and custody of the defendants; ten, change the  
4 venue; and 11, provide for me to call witnesses for depositions  
5 and trial.

6 All right. Three -- is she getting this?

7 THE COURT: Yeah, we have a court reporter.

8 MR. VANCE: Okay. And three, you know, Judge Mae A.  
9 D'Agostino does not have any authority at all to dismiss certain  
10 defendants or claims based on the illegitimate ground that I  
11 failed to state a claim upon which relief may be granted. She  
12 had recused from mishandling this case and is being sued in her  
13 individual and official capacity as a result of her wrongful  
14 actions in the filing process of my legal papers.

15 THE COURT: Wait, you're saying Judge -- you sued  
16 Judge D'Agostino?

17 MR. VANCE: Yes. I submit that Judge Mae A. -- Judge  
18 Mae A. D'Agostino does not have any authority at all to dismiss  
19 certain defendants or claims and --

20 THE COURT: But you said -- you said you sued her?

21 MR. VANCE: Yes, she's labelled as a defendant with  
22 the Court.

23 THE COURT: In this case?

24 MR. VANCE: In this case. I supplemented the  
25 complaint because of things that she was doing in the filing

1 process. And of course, you know, the Court just didn't do what  
2 they were supposed to do, so -- but the Court is still labelled  
3 as defendants. And, of course, Mrs. Mae A. D'Agostino -- that's  
4 the Judge --

5 THE COURT: Yep, I know who she is.

6 MR. VANCE: So that's why I said, three, Judge Mae A.  
7 D'Agostino does not have any authority at all to dismiss certain  
8 defendants or claims based on the illegitimate ground that I  
9 failed to state a claim upon which relief may be granted. She  
10 had recused from mishandling this case and is being sued in her  
11 individual and official capacity as a result of her wrongful  
12 actions in the filing process of my legal papers.

13 And, four, the Court and State of New York Attorney  
14 General Office has refused to respond to my legal papers in the  
15 appropriate manner because you're trying to prevent me from  
16 suing certain defendants and raising legitimate claims set forth  
17 in the timely filed supplemental complaint part one, two, and  
18 three. All defendants listed in the supplemental complaint must  
19 be held to answer for their wrongful actions or neglect as  
20 described in each and every cause of action setting forth all  
21 legitimate claims upon which the requested relief must be  
22 granted in its entirety as a result of the law and facts of the  
23 case. United States District Court Judges Mae A. D'Agostino,  
24 Brenda K. Sannes, and Andrew T. Baxter have been trying to  
25 protect the defendants, so I'm suing the Court as a result of

1 the wrongful actions of their employees as described in the  
2 supplemental complaint.

3 Did she get that?

4 THE COURT: She's taking down every word you're  
5 saying.

6 MR. VANCE: Okay. And, five, the Court is required  
7 by law to permit to me to serve supplemental pleadings setting  
8 out of transactions, occurrences, or events that happen after  
9 the date of the filing of the original complaint part one. The  
10 supplemental pleadings allege all facts connected to the  
11 original pleadings to obtain relief along the same lines,  
12 pertaining to the same cause, and based on the same subject  
13 matter or claims for relief as set out in the supplemental  
14 complaint part one, two, and three.

15 THE COURT: Okay. You done?

16 MR. VANCE: No.

17 Six, all right, the Court has refused to have the  
18 United States Marshal serve copies of the supplemental  
19 complaint, summons, and supporting exhibits upon the United  
20 States Attorney General Office. The United States Attorney  
21 General Office was required by law to serve an answer for the  
22 supplemental complaint because the State's -- the claims are  
23 against agencies and employees of the federal government. The  
24 United States Attorney General Office must provide for the  
25 enforcement of federal laws and investigation of violations in



1 this civil case.

2           Seven, if we are unable to reach a settlement  
3 agreement to resolve this civil suit during this conference,  
4 then this case must be transferred to the United States District  
5 Court in Buffalo for, one, the convenience of witnesses who  
6 present firsthand knowledge -- excuse me?

7           THE COURT: We're still here.

8           MR. VANCE: Oh, I thought you had said something.

9           All right. All right. Seven -- I'm handcuffed. I'm  
10 trying to do this while I'm handcuffed and it's just kind of  
11 hard because I'm in handcuffs in the room while I'm reading it.  
12 All right? These is all the issues that are involved in this  
13 case.

14           Seven -- let's see -- if we are unable to reach a  
15 settlement agreement to resolve this civil case during this  
16 conference, then this case must be transferred to the United  
17 States District Court in Buffalo for, one, the convenience of  
18 witnesses who present firsthand and special knowledge of the  
19 facts which are relevant to this case; two, the availability of  
20 processes to compel the attendance of unwilling witnesses;  
21 three, the plaintiff's choice of forum; four, the locus of  
22 operative facts; five, in the interest of justice because the  
23 United States District Courts in Syracuse and Rochester are  
24 being sued as a result of the wrongful actions of their  
25 employees as described in the supplemental complaint; eight, the

1 Court has not issued a scheduling order which sets forth a  
2 schedule for how this case is to progress and when certain  
3 phases of the case must be completed in this civil action. We  
4 must discuss a proposed schedule during the scheduling  
5 conference, which shall take place after this case is  
6 transferred to the United States District Court in Buffalo.

7           Nine -- nine, I will need a court appointed attorney  
8 to handle my legal affairs throughout this case if we are unable  
9 to reach a settlement agreement during this conference. I do  
10 not have the expertise to handle this historic high profile  
11 civil case without the assistance of counsel to investigate the  
12 crucial facts, present the case, handle the complexity of the  
13 legal issues, and conflicting evidence implicating the need for  
14 cross examination, which will be the major proof to the  
15 factfinder. I will need the assistance of counsel to make  
16 arrangements for mental and physical examination for my current  
17 medical conditions and to call witnesses for depositions and  
18 trial. The defendants have been using different tactics to  
19 prevent me from accessing the law library and its materials  
20 throughout this unlawful imprisonment, so I will also need the  
21 assistance of counsel to help me prepare for the depositions and  
22 trial.

23           Ten, the defendants have not turned over all  
24 documentary and other evidence requested in my discovery motion  
25 that was illegally denied by Judge Mae A. D'Agostino before she

1 had recused from mishandling this case.

2           Eleven, there is a conflict of interest in this case  
3 because the United States District Court judges will gain  
4 something personally from the decisions that will be made in  
5 their official capacities. They will not be able to act  
6 independently because of their connections with the defendants  
7 and other people. There will also be a conflict between the  
8 public obligations and private interests of public officials  
9 because of the facts and circumstances involved in this case.

10           Twelve, the United States government has placed me in  
11 the spotlight or hands of the people so that they will be able  
12 to benefit from their life's work to advance socially and  
13 economically. The people are aware of all transactions,  
14 occurrences, or events that have happened throughout the course  
15 of my life. The United States government has been applying  
16 their sciences and using advanced technology to manipulate my  
17 actions and others to promote the inherited destructive  
18 lifestyle of promiscuous sex, alcohol and drug abuse, crime --  
19 crime, incarceration, and other activities to manifest my  
20 destiny due to media, science, and technology while studying,  
21 documenting, and recording my psychological and behavioral  
22 characteristics through systematic observation, testing,  
23 experiments, formulation, measurement, and modification of  
24 hypotheses, the long chain of events that led to my arrest for  
25 the justifiable homicide of Mr. Frederick Gelsey Jr., the

1 deliberate sabotaging of my entire criminal case by the United  
2 States governmental people, and the acceptance of a plea of  
3 guilty by Erie County Judge Michael F. Pietruszka to sentence me  
4 to a determinate term of 23 years without the presentment of  
5 legitimate indictment to place me in prison illegally and to  
6 have the defendants continuously abuse me and repeatedly violate  
7 my Human Rights while trying to distract, discourage, and  
8 prevent me from seeking to be released from this unlawful  
9 imprisonment and compensating for the damages sustained as a  
10 result of their wrongful actions throughout this unlawful  
11 imprisonment for well over eight and a half years.

12           Those -- those -- that all right there, everything I  
13 just read into the record is all the issues that are involved in  
14 this case and that's why, of course, I didn't go through with  
15 Assistant Attorney General Erik Pinsonnault's deposition.  
16 There's so many issues involved in this case, it don't -- it  
17 doesn't make no sense. There's no way that, of course, we can  
18 go further until, of course, all these issues are addressed.

19           THE COURT: Okay. All right. So let me respond, Mr.  
20 Vance, to your statements.

21           You have identified a number of issues and say they  
22 need to be resolved in this case, but, in fact, most, if not all  
23 of them, have been resolved. Specifically on January 3, 2020,  
24 at Docket No. 117, Judge Sannes issued an order and decision  
25 addressing various motions that you made to change venue, for

1   recusal, to supplement the complaint, for appointment of pro  
2   bono counsel, and she denied all those applications.

3           MR. VANCE: Exactly. She illegally denied those and  
4   that's why court is defendants.

5           THE COURT: Okay. All right. It's my turn to talk.  
6   You talked for about 15 minutes. When I want to hear from you  
7   again I will let you know. Right now, I'm speaking.

8           MR. VANCE: May I ask who I'm speaking to?

9           THE COURT: Yeah, this is Judge Baxter.

10          MR. VANCE: Okay. So you're -- of course, you're a  
11   part of the court.

12          THE COURT: Yes, I am a part of the --

13          MR. VANCE: And you're trying to act like a judge had  
14   issued the order, but none of these issues have been addressed.  
15   You're still trying to -- you're trying to basically hit me with  
16   the same things that, of course, the Assistant Attorney General,  
17   Erik Pinsonnault, is hitting with. You know, someone has to  
18   provide for the enforcement of law. I have rights.

19          THE COURT: Okay. Mr. Vance --

20          MR. VANCE: So I --

21          THE COURT: Mr. Vance -- Mr. Vance, you've had your  
22   opportunity to speak. It is my turn to speak now, so I want you  
23   to listen to me and then you can do whatever you want to do, but  
24   you are a plaintiff who initiated this lawsuit, you do not get  
25   to set the rules by which the case is litigated. There are

1 rules set by the rules of procedure, by the rules relating to  
2 discovery, by the law related to dispositive motions that have  
3 been addressed, and if you don't like the outcome, that doesn't  
4 mean you get to change how the rules are applied. You don't get  
5 to decide -- you don't get to decide who your judge is --

6 MR. VANCE: You don't --

7 THE COURT: -- or what district you're going to be  
8 in.

9 MR. VANCE: So --

10 THE COURT: And so if you want your case to go  
11 forward, you're going to have to follow the rules. And if you  
12 don't like the outcome --

13 MR. VANCE: So I --

14 THE COURT: Don't interrupt me. If you don't like  
15 the outcome of the decisions in this case, you will have the  
16 opportunity to appeal to yet another group of judges, the Second  
17 Circuit Court of Appeals, and if there is an error or a mistake  
18 by the judges at this level in the Northern District of New  
19 York, then they'll rule that way. But in the meantime, you are  
20 bound by the decisions that have been made by the judges in this  
21 case and if you want to --

22 MR. VANCE: But you're not even a judge on the case.  
23 I never even asked for -- I never asked for you to be -- I asked  
24 for a United States District Court judge. You're not a United  
25 States District Court judge --

1 THE COURT: Yes.

2 MR. VANCE: -- you're a magistrate.

3 THE COURT: That's correct.

4 MR. VANCE: Yeah, you're not even a judge. You're  
5 not even an assigned judge.

6 THE COURT: I am the judge that is assigned to handle  
7 preliminary proceedings in this case and that is what I am  
8 doing. And if you don't -- listen, if you don't like the rules  
9 that are set here, then --

10 MR. VANCE: You're not following the rules. You're  
11 trying to -- you're trying to just hit me with anything. And  
12 the rules say right here -- number three, this is the law.  
13 Requests for assigned counsel may be made pursuant to 28 U.S.C.  
14 Section 1915(e)(1). The Court will make every effort to appoint  
15 counsel in civil rights cases filed by inmates, but generally  
16 only after the plaintiff's allegations have demonstrated some  
17 degree of merit to the Court, some need for such representation,  
18 which I just, of course, demonstrated, and that you have already  
19 made some unsuccessful efforts to locate an attorney, which, of  
20 course, I showed you that, of course, I have made all types of  
21 unsuccessful efforts to locate an attorney. So if you're -- if  
22 you're talking -- acting like you're going by the law, then why  
23 don't I have an attorney?

24 THE COURT: Because the --

25 MR. VANCE: Because, of course, you --

1 THE COURT: Mr. Vance -- Mr. Vance --

2 (Whereupon, the court reporter interrupted due to  
3 unintelligible cross talk.)

4 THE COURT: Mr. Vance --

5 MR. VANCE: You're involved in this case and have a  
6 lack of impartiality. This court is a defendant. You can't  
7 keep this case in your court. It must be transferred to another  
8 court. And, of course, all judges in this court cannot handle  
9 this case. You're still trying to handle this case when, of  
10 course, the court is labelled as a defendant. There's a  
11 conflict of interest. Judge Mae A. D'Agostino is labelled as a  
12 defendant.

13 THE COURT: All right. Mr. Vance --

14 MR. VANCE: She's a defendant --

15 THE COURT: Mr. Vance --

16 MR. VANCE: -- and the court is labelled as a  
17 defendant. So, of course, this case -- this case cannot proceed  
18 in your court. You must transfer the case to another court.  
19 There's nothing you can do. It's out of your hands. You're a  
20 defendant. The court has been labelled as a defendant. I  
21 supplemented the complaint. As you just said, you're bound by  
22 the law. It says right here. It says, on a supplemental  
23 complaint -- you may file a supplemental complaint only if you  
24 request permission of the Court, which I did, by motion with  
25 notice to the opposing parties. Of course, I supplemented the



1 complaint in the filing process, so, of course, the United  
2 States Marshals didn't serve the defendants yet. So, of course,  
3 you know, I didn't, of course, serve all notice to the opposing  
4 parties, so, of course, you know -- which, of course, you  
5 know -- because, of course, it was in the filing process when,  
6 of course, I supplemented the complaint.

7           It says, a supplemental complaint must only address  
8 events which have occurred since the time the original complaint  
9 was filed. And, of course -- which, of course, I demonstrated  
10 and which are in some way related to the original allegations.  
11 Refer to Rule 15(d). And you're saying that you're going by the  
12 law, so, of course, I can supplement the complaints. And the  
13 court is labelled as defendants, so, of course, right here --  
14 and it says, all -- it says -- right here, it says, the court is  
15 required by law to permit me to serve supplemental pleadings  
16 setting out the transactions, occurrences, or events that  
17 happened after the date of filing of the original complaint part  
18 one. The supplemental pleadings alleges all facts connected to  
19 the original pleadings to obtain relief along the same lines,  
20 pertaining to the same cause, and based on the same subject  
21 matter or claims for relief as set out in the supplemental  
22 complaint part one, two, and three.

23           So you're sitting up there acting like you're going  
24 by the law, but you're not. So what is you -- like, you're not  
25 saying nothing. You're acting like you're following the rules

1 and regulations when you're not. It says it right here. I'm  
2 reading it right here. Refer to Rule 15(d) of the Federal Rules  
3 of Civil Procedure. So, like, where is you -- where you is --  
4 like, where is you getting it from? I don't understand. Like,  
5 nothing can go further in this court.

6 THE COURT: All right. Mr. Vance --

7 MR. VANCE: The court is a defendant.

8 THE COURT: Mr. Vance, stop talking, please. You  
9 have raised a lot of issues. They have been addressed by the  
10 Court. If you don't --

11 MR. VANCE: They have not been addressed.

12 THE COURT: If you don't -- don't interrupt me again.  
13 If you do, I'm going to hang up the phone and I'm going to  
14 authorize the Assistant Attorney General to file a motion to  
15 dismiss this case. You're not allowed to just speechify and  
16 think you can get your way by not letting me speak, so I'm going  
17 to say something now and I want you to say quiet.

18 Most of these issues have been addressed by the  
19 Court. If you disagree with the outcome, that's fine. At the  
20 end of the case, you can appeal those decisions, but --

21 MR. VANCE: But I've raised these issues with the  
22 court.

23 THE COURT: -- this case -- Mr. Vance, this case is  
24 going to move forward and the next step that's going to happen  
25 is that you are going to submit to a deposition.

1           And if you do not submit to a deposition, I'm going  
2 to authorize defense counsel to move your -- move to dismiss  
3 your --

4           MR. VANCE: How is you going to --

5           THE COURT: -- case for failure to prosecute, do you  
6 understand that?

7           I'm going to extend the schedule. I'm going to --  
8 I'm going to authorize your deposition to go forward. I am  
9 going to order you to conduct that -- to participate in that  
10 deposition.

11          MR. VANCE: See, I'm not participating --

12          THE COURT: If you do not --

13          MR. VANCE: I'm not going to participate. I don't  
14 have to participate.

15          THE COURT: All right. Well, then --

16          MR. VANCE: I don't have to participate in no  
17 deposition.

18          THE COURT: -- if you want your case --

19          MR. VANCE: You can't make do something that, of  
20 course, I know I don't have to do. You're not addressing none  
21 of the issues of the case. You're trying to go forward with the  
22 case by not, of course, doing what you're supposed to do. You  
23 have legal obligations. You're -- I never even raised any of  
24 these issues until I -- I never even had an opportunity to speak  
25 to you until now. I never even talked to Mrs. Brenda K. Sannes

1 yet, you know, and she's the assigned judge, and she's not even  
2 handling this issue now. You're handling --

3 THE COURT: She's decided the issues in a written  
4 decision based on the papers, including those that you have  
5 submitted, so don't say --

6 MR. VANCE: You said I -- I didn't get no opportunity  
7 to --

8 THE COURT: No, stop.

9 MR. VANCE: -- look through this order that you're  
10 saying that, of course, Mrs. Brenda K. Sannes supposed to have  
11 ordered on the issues and, of course, that -- you're saying she  
12 addressed these issues?

13 THE COURT: Yes.

14 MR. VANCE: Because this is what you're telling me --

15 THE COURT: Yes.

16 MR. VANCE: -- you're saying that she addressed these  
17 issues. I have the order that you're acting like she addressed  
18 these issues in and, of course -- may I look through it?

19 THE COURT: Docket No. 117, decided on 1/3/2020,  
20 decision and order denying your motion to change venue, for  
21 recusal, to supplement the complaint, and for appointment of pro  
22 bono counsel. And as I say, if you don't like that outcome, at  
23 the end of this case, you can appeal it.

24 But right now, this is what you need to understand:  
25 The case is going to move forward. It has been -- so far been

1 decided based on the rules. There has been -- there have been  
2 scheduling orders entered even though you pretend there hasn't.  
3 There has been --

4 MR. VANCE: Then where is the scheduling orders?  
5 There's no --

6 THE COURT: -- mandatory --

7 MR. VANCE: We haven't even had a scheduling  
8 conference. You know, every conference that you've had you was  
9 acting like it's a conference for depositions. We never had a  
10 scheduling conference. You're lying now.

11 THE COURT: Mr. Vance, there was a mandatory pretrial  
12 discovery order issued on February 13, 2020, the deadlines have  
13 been extended twice --

14 MR. VANCE: And I can't do a deposition --

15 THE COURT: -- as a result of --

16 MR. VANCE: -- because of my medical conditions and  
17 if you don't want to respect that, I don't know what else to  
18 tell you. I can't do --

19 THE COURT: Mr. Vance -- Mr. Vance --

20 MR. VANCE: I have all these -- I have all these  
21 medical conditions because of the things that y'all decided to  
22 do to me --

23 THE COURT: All right. Mr. Vance --

24 MR. VANCE: -- so if you, you know --

25 THE COURT: Mr. Vance -- Mr. Vance, stop talking. I

1 don't know how you can say you have medical issues that preclude  
2 you from being questioned under oath when you have managed to  
3 sit there and talk for 45 minutes straight about this case.

4 MR. VANCE: I'm talking about the things that people  
5 have done to me. I can't -- it caused -- I'm going to tell you  
6 my medical conditions right now.

7 THE COURT: No --

8 MR. VANCE: I never even got --

9 THE COURT: -- I'm not interested in hearing about  
10 your medical conditions. You have demonstrated by your  
11 participation in this conference that you're more than capable  
12 of a deposition.

13 MR. VANCE: I'm not doing no deposition. I don't  
14 care what you say. My health is more important than anything.  
15 If you want to go through with the deposition, I'm going to  
16 speak and say exactly what I just said over this phone. And if  
17 you don't like that, then, of course, do whatever you said  
18 you're going to do because, of course, you know, like I said, I  
19 have medical conditions. You don't want to hear what medical  
20 conditions I have, so, of course, then you don't have to hear  
21 them. But, of course, like I said, I am not healthy.

22 THE COURT: You're --

23 MR. VANCE: I am not healthy. What else do you want?

24 THE COURT: You are not being asked to run a  
25 marathon, you're being asked to discuss this case and be

1 questioned about this case under oath. You've talked about this  
2 case for 45 minutes today, so I do not believe that --

3 MR. VANCE: I didn't talk about the case, I gave  
4 information that --

5 THE COURT: -- you're precluded from --

6 MR. VANCE: We're not -- we're not -- as far as the  
7 issues that have been raised in my complaint, that is totally --  
8 that's totally different. Those are my -- my civil claims.  
9 That's as far as -- you know, that's something totally different  
10 from this right here. This is what y'all been doing throughout  
11 the filing process. This is what, you know -- of course, as far  
12 as y'all not following procedures in the court. This is what  
13 we're discussing. This is totally different --

14 THE COURT: It's not --

15 MR. VANCE: -- than what's going on inside of the  
16 complaint. This is totally different.

17 THE COURT: All right.

18 MR. VANCE: This is -- this is not even the same  
19 material that's, of course, been submitted to the court. That's  
20 why I said let me look through her -- her motion because, of  
21 course, you're acting like she addressed these issues and she  
22 never addressed them.

23 THE COURT: Okay. Mr. Vance, here's the bottom line:  
24 I'm going to -- you've refused to submit to a deposition. You  
25 are obligated to do so, I directed you to do so, and you say you

1 are not going to go forward with the deposition, and --

2 MR. VANCE: Because of my medical condition.

3 THE COURT: -- that's fine.

4 MR. VANCE: I have medical --

5 THE COURT: I'm going to -- I'm going to authorize  
6 the -- I am going to authorize the Assistant Attorney General to  
7 move to dismiss your case for failure to prosecute and --

8 MR. VANCE: You can't do that.

9 THE COURT: I just did it.

10 MR. VANCE: You can't --

11 THE COURT: I just did it.

12 MR. VANCE: You can't make the Assistant Attorney  
13 General -- tell him that you're going to have him dismiss the  
14 case because the court is a defendant. You can't do that.

15 THE COURT: He's going to move to dismiss the case,  
16 you can respond to it, it will be decided, and you can appeal if  
17 you don't like the outcome.

18 MR. VANCE: Whatever. Whatever. Whatever. Do  
19 whatever you're going to do. Have him do whatever you're going  
20 to do. It's out of my hands. This is something y'all planned  
21 on doing. Like I said, I have legitimate grounds by, of  
22 course -- you know, of course, I'm not going to, of course, you  
23 know, do a deposition. And, of course, you can't make me do a  
24 deposition. You don't want to do what you're supposed to do,  
25 so, of course, it's out of my hands. Like I said, I did



1 everything I was supposed to do and, of course, y'all are  
2 defendants and, of course, you just don't want to do what you've  
3 got to do because, of course, I learned the things I was  
4 supposed to learn and, of course, I did the things I was  
5 supposed to do in this situation, so, of course, whatever.

6           You can tell the Attorney General to do whatever he's  
7 going to do and then I guess this is just how this case is going  
8 to go because it's out of my hands. But, of course, you know, I  
9 did everything in my power to get out of this life situation,  
10 so, of course, I can't do anything other than what I have done.  
11 And, of course, you know, this has been a long drawn out  
12 process, you know, because, of course, y'all have y'all claims,  
13 but, of course, I set my fate. But, of course, at the end of  
14 the day, whatever. Whatever you're going to do -- do what  
15 you're going to do because, of course, you know, you haven't  
16 addressed any issues in this case.

17           You're just trying to, of course, drag me along and  
18 have me play y'all little game, you know, some more when, of  
19 course, you know, you know what you're supposed to do in a  
20 situation like this. I'm supposed to have a lawyer. I'm  
21 supposed to have a lawyer. And when somebody's telling you  
22 that, of course, they have all these medical problems and, of  
23 course, trying to explain to you what is wrong with them and you  
24 say I don't want to hear that, I don't want to hear that, you've  
25 just got to do a deposition, you've just got to do a deposition,

1 that, of course, shows everyone that, of course, you know, you  
2 just want what you want and you're not going by the law.

3 THE COURT: I want you to follow the rules of court  
4 and the law in prosecuting your case. You refuse to do so and,  
5 therefore, I'm going to authorize --

6 MR. VANCE: I'm not --

7 THE COURT: -- the Attorney General to file a motion  
8 to dismiss.

9 MR. VANCE: I'm sitting here addressing -- I'm  
10 sitting here talking to you about the issues of the case and  
11 you're talking about somebody addressing them and then, of  
12 course, I'm trying to go to the motion to show you that she  
13 didn't address them and then you start reading something into  
14 the record that don't -- that don't even matter. It's not  
15 saying anything about her addressing the issues of the case, you  
16 just start reading the docket. You just start reading the  
17 docket number and all this -- all this other stuff that don't  
18 even -- that don't even -- that's irrelevant. You acting like  
19 you just read her decision or something. You didn't do anything  
20 you were supposed to do. You're acting like you just -- like  
21 you just read her decision on the record or something because,  
22 of course, you know, you just made a statement that she  
23 addressed these issues when she didn't.

24 This is why the court is a defendant. This is why  
25 the case is supposed to be transferred to another court. This

1 is why the Assistant Attorney General is supposed to enforce the  
2 law so that, of course, this case may go further, so that, of  
3 course, this -- this legal action would be evenhanded. You're  
4 trying to make me do things, of course, that, of course, no man  
5 should do in a civil suit like this and that's, of course, give  
6 their testimony, of course, without being all prepared by his  
7 attorney. I'm not even prepared. I don't have no -- I can't  
8 access -- I can't go to the law library. I can't access the  
9 legal material to, of course, prepare myself for depositions or  
10 nothing. Then on top of that, I'm not even receiving the  
11 medical treatment that I'm supposed to receive, so that, of  
12 course, I can't be healthy enough to, of course, give my  
13 testimony during a deposition.

14 So what else do you want me to do?

15 THE COURT: I want you to stop talking because I'm  
16 going to --

17 MR. VANCE: There's nothing else I can do. I  
18 can't -- I can't -- I can't go to the law library to prepare  
19 myself for depositions. I can't get the legal material from the  
20 law library to, of course, prepare myself for a deposition. So  
21 all I asked you to do was give me a lawyer so that, of course,  
22 my lawyer can help prepare me for a deposition and you don't  
23 even want to do that.

24 And then, of course, you know, like I said, I have  
25 all these medical conditions. You don't even want to give me a

1 mental or physical examination. You don't even want to provide  
2 me a physical --

3 THE COURT: Mr. Vance --

4 MR. VANCE: -- or mental examination before you even  
5 go through with the deposition. So what am I supposed to do if  
6 you're not doing anything you're supposed to do and then you're  
7 acting like you're following the law? You're not following the  
8 law. You're not doing anything you're supposed to do on my  
9 behalf. Here's an inmate who, of course, has been continuously  
10 abused and his human rights has been continuously violated by  
11 the defendants and you're just sitting there acting like, oh,  
12 well. Like, oh, well. And, you know, all the things these  
13 people have done to me and you're just sitting here, oh, well.  
14 Oh, well.

15 THE COURT: All right. Mr. Vance -- Mr. Vance --

16 MR. VANCE: This is --

17 THE COURT: Mr. Vance -- Mr. Vance -- Mr. Vance, I'm  
18 going to terminate -- I am going to terminate this call. You  
19 have had a fulsome opportunity to --

20 MR. VANCE: Of course you are.

21 THE COURT: -- make your points --

22 MR. VANCE: Of course you are.

23 THE COURT: -- and you have made them on the record.

24 MR. VANCE: Of course you will. You've been wanting  
25 to do what y'all wanting to do, so do what you're going to do.

1 Terminate the call and --

2 THE COURT: I terminate the call.

3 (Time noted: 2:34 p.m.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF OFFICIAL REPORTER

I, HANNAH F. CAVANAUGH, RPR, CRR, CSR, NYACR, NYRCR, Official U.S. Court Reporter, in and for the United States District Court for the Northern District of New York, DO HEREBY CERTIFY that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 17th day of December, 2020.

s/ Hannah F. Cavanaugh

HANNAH F. CAVANAUGH, RPR, CRR, CSR, NYACR, NYRCR  
Official U.S. Court Reporter